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GAMBLING COMMISSION
COMM & LEGAL DIVISION

In the Matter of the Revocation of the)
Certification to Conduct Gambling)
Activities of:)
)
Austin L. Moses)
Auburn, Washington,)
)
Class III Employee.)
_____)

NO. CR 2012-01516

SETTLEMENT ORDER

The Washington State Gambling Commission and the Class III Employee, Austin L. Moses, agree to this Settlement Order to resolve the administrative charges pending against him. Stephanie U. Happold, Assistant Attorney General, and Melinda Froud, Staff Attorney, represent the Gambling Commission. Mr. Moses represents himself.

I.

The Washington State Gambling Commission issued Austin L. Moses the following certification: Number 69-11545, authorizing Class III Employee activity.

The certification expires on October 11, 2013, and was issued subject to Mr. Moses' compliance with state gambling laws and rules.

II.

On January 29, 2013, the certified employee was served with the Notice of Administrative Charges. On February 11, 2013, Mr. Moses requested an Administrative Hearing on his revocation proceedings.

III.

SUMMARY:

Austin L. Moses has an extensive administrative history and continues to show willful disregard for court orders. He has demonstrated this through continually not paying his court-ordered fines and fees, resulting in them being assigned to collections. At the time of his renewal in October 2012, it was determined that Mr. Moses has new cases in collections, and he has an active warrant for his arrest.

FACTS:

1) On October 16, 2012, a Washington State Gambling Commission Special Agent (agent) was reassigned to Austin L. Moses' file to determine whether he qualifies to maintain his certification to work at the Muckleshoot Casino. His file was brought to the agent's attention during a routine annual criminal history check.

2) As part of the investigation, the agent reviewed Mr. Moses' gambling license file. He first applied for and was granted certification in 2000 to work at Yakama's Legends Casino. He has maintained his certification on and off since then. In 2006, he began working at the Muckleshoot Casino. In 2010 and again in 2011, Mr. Moses was the subject of administrative charges due to his failure to comply with court orders. The following is a summary of previous actions against him:

- On December 1, 2010, the agent opened case 2010-01385. At the time, Mr. Moses had \$3,869.32 in court-ordered fines and fees that had been sent to collections, and he had four Failures to Appear on his record.
- On April 19, 2011, an administrative hearing was held in the matter of the revocation of Mr. Moses' certification.
- On May 3, 2011, Administrative Law Judge Douglas H. Haake signed the Initial Order to revoke Mr. Moses' certification based on the following analysis:

"Mr. Moses has a pattern of ignoring court ordered financial obligations and failing to appear for hearings. Mr. Moses' pattern of behavior poses a threat to the effective regulation of gambling and a present threat to the public in his position as a gambling licensee; it is the public interest that his gambling license be revoked. . . Mr. Moses has not affirmatively established by clear and convincing evidence that he is qualified to hold a gambling certification in accordance with the laws and regulations governing gambling in the State of Washington and accordingly. . . the gambling license of Austin L. Moses shall be revoked."¹

3) On July 14, 2011, after filing a Petition for Review of the Initial Order, Mr. Moses' case was reviewed by the Commissioners. Mr. Moses and the Commission entered into a Stipulation and Final Order on Petition for Review. The Stipulation stated that since the administrative hearing, Mr. Moses had paid approximately \$1,100 towards his court-ordered fines and fees and agreed to enter into a payment program until all outstanding fines and fees were paid in full. The Stipulation also stated that Moses' "revocation is hereby deferred until July 14, 2012" with the following conditions:

- Mr. Moses shall enter into a payment plan with the courts and timely make all of the payments required on all of the outstanding court fees and costs that gave rise to the statement of charges;
- Mr. Moses shall violate no gambling related statute or regulation during the period of the deferred licensing revocation; and
- Mr. Moses' certification is suspended for seven days.

4) The Stipulation concluded with "failure to timely comply with any of the above conditions of deferral may result in this matter brought back before the Commission for further proceedings, possible reconsideration of the deferral of revocation granted herein, and the Commission's

¹ The judge used the terms "license" and "licensee" throughout his order instead of "certification" and "certified employee."

issuance of an amended Final Order On Petition For Review that fully revokes the Petitioner's Class III certificate to conduct gambling activities in the State of Washington."

5) On November 30, 2011, the agent interviewed Mr. Moses at the Muckleshoot Casino to ensure that he received a copy of the Stipulation and understood the ramifications for not complying with it. During the interview, the agent was able to determine that Mr. Moses had not made any additional payments toward his court-ordered fines and fees, nor had he entered into any type of payment plan with the courts. Since Mr. Moses was in violation of the Stipulation Order, the agent completed a case report.

6) On March 8, 2012, Mr. Moses again appeared before the Commissioners. An Assistant Attorney General provided argument to the Commission to revoke Mr. Moses' certification based on his violation of the Stipulation and Order. The Commissioners voted to not revoke Mr. Moses' certification and directed staff to report back to them on the progress of Mr. Moses' payments by May 15, 2012. Commissioner Rojecki told Mr. Moses that the Commission takes this issue very seriously. Commissioner Rojecki hoped "Mr. Moses has most, if not all, of this debt paid off by May 15, 2012" and said that the Commissioners also "expect to see some change from Mr. Moses' behavior." When Commissioner Rojecki asked Mr. Moses if he understood the repercussions of having his license revoked, Mr. Moses answered that he did.²

7) On June 12, 2012, the agent prepared the supplemental report to serve as an update on the status of Mr. Moses' fines and fees that were in collections. The agent was able to confirm that as of June 12, 2012, Mr. Moses had paid all of his outstanding court-ordered fines and fees that were in collections; however, Mr. Moses owed \$287 that had not been sent to collections.

8) On July 12, 2012, Mr. Moses' update was presented to the Commissioners.³ It was reported that a payment plan was successful because Mr. Moses had paid off all of his court debts that were in collections and that staff would not be pursuing his revocation.

9) When the agent reviewed Mr. Moses' annual criminal history check, she noted that Mr. Moses has the following new items on his record: one warrant for Driving Under the Influence (a gross misdemeanor), three new cases, four new Failures to Appear, and \$1,012 in collections. Additionally, he has \$1,152 selected for, but not yet referred to, collections.⁴ The agent determined Mr. Moses does not qualify for certification based on his willful disregard for court orders.

VIOLATIONS:

Section V.C. of the Muckleshoot Tribe/State Compact

The State Gaming Agency⁵ may revoke, suspend or deny a State certification under the provisions of RCW 9.46.075, and rules promulgated there under, or for any reason or reasons it

² Information summarized from the March 8, 2012, Commission meeting minutes.

³ The May 15, 2012 due date occurred after the May Commission meeting. As no Commission meeting was held in June, staff reported back during the July Commission meeting.

⁴ According to the Judicial Information System money screen.

⁵ Washington State Gambling Commission, as referred to in the Muckleshoot Tribal/State Compact, Section II (U).

deems to be in the public interest. In addition, these reasons shall include, but shall not be limited to when a holder of certification:
(The following subsection applies.)

(1) Is determined to be a person whose prior activities, criminal record, if any, or reputation, habits and associations pose a threat to the effective regulation of gaming or create or enhance the chances of unfair or illegal practices, methods and activities in the conduct of the gaming activities permitted pursuant to this Compact; or the person has violated, failed or refused to comply with the provisions, requirements, conditions, limitations or duties imposed by any provision of a Tribal-State Compact.

RCW 9.46.075 Denying, suspending, or revoking an application, license or permit

The commission may deny an application, or suspend or revoke any license or permit issued by it, for any reason or reasons, it deems to be in the public interest. These reasons shall include, but not be limited to, cases wherein the applicant or licensee, or any person with any interest therein:
(The following subsections apply.)

(1) Has violated, failed or refused to comply with the provisions, requirements, conditions, limitations or duties imposed by chapter 9.46 RCW and any amendments thereto, or any rules adopted by the Commission pursuant thereto, or when a violation of any provision of chapter 9.46 RCW, or any Commission rule, has occurred upon any premises occupied or operated by any such person or over which he or she has substantial control.

(8) Fails to prove, by clear and convincing evidence, that he is qualified in accordance with the provisions of this chapter.

WAC 230-03-085 Denying, suspending, or revoking an application, license or permit

We may deny, suspend, or revoke any application, license or permit, when the applicant, licensee, or anyone holding a substantial interest in the applicant's or licensee's business or organization:

(The following subsections apply.)

(1) Commits any act that constitutes grounds for denying, suspending, or revoking licenses or permits under RCW 9.46.075.

(3) Has demonstrated willful disregard for complying with ordinances, statutes, administrative rules, or court orders, whether at the local, state, or federal level.

(6) Is the subject of an outstanding gross misdemeanor or felony arrest warrant.

(8) Poses a threat to the effective regulation of gambling, or creates or increases the likelihood of unfair or illegal practices, methods, and activities in the conduct of gambling activities, as demonstrated by: (a) Prior activities; or (b) Criminal record; or (c) Reputation; or (d) Habits; or (e) Associations.

RCW 9.46.153 Applicants and licensees-Responsibilities and duties

(The following subsection applies.)

(1) It shall be the affirmative responsibility of each applicant and licensee to establish by clear and convincing evidence the necessary qualifications for licensure of each person required to be qualified under this chapter, as well as the qualifications of the facility in which the licensed activity will be conducted.

IV.

Mr. Moses has waived his right to a hearing based on the terms and conditions of this Settlement Order and further agrees to the following:

- 1) Austin L. Moses shall surrender his Class III certification. **The signed Settlement Order and the certification must be received by Commission staff on or before March 18, 2013,** and mailed to Commission Headquarters at the following address:

Washington State Gambling Commission
Attention: Communications and Legal Division
P.O. Box 42400
Olympia, WA 98504-2400

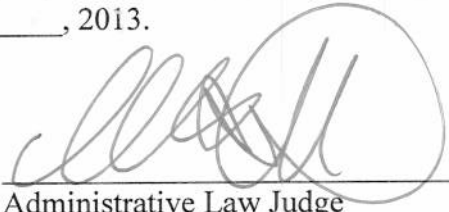
Or delivered (in person or via private courier) to the following address:

Washington State Gambling Commission
Attention: Communications and Legal Division
4565 7th Avenue SE; Fourth Floor
Lacey, WA 98503

- 2) In the event Mr. Moses subsequently applies for a certification or gambling license, he will be subject to all the Commission's investigative procedures for processing an application for a gambling license. Furthermore, no promises or assurances have been made to Mr. Moses that he will receive a certification or license from the Commission should he apply.

- 3) Mr. Moses shall have no involvement directly or indirectly, whether paid or unpaid, in the operation, ownership, or financing of any business in Washington State which is applying for, or holds, a gambling license or permit or is involved with any gambling activity, including punchboard/pull-tab activity. However, this does not prevent Mr. Moses from working in any non-gambling activity, such as employment in restaurants located in establishments engaged in authorized gambling activity.

DATED this 11th day of March, 2013.



Administrative Law Judge
CHARLES BRYANT II

By his signature, the certified employee understands and accepts the terms and conditions of this Order.

APPROVED FOR ENTRY:

Austin L. Moses
Austin L. Moses,
Class III Employee (Date)

APPROVED AS TO FORM:

Stephanie U. Happold 3/15/13
Stephanie U. Happold, WSBA# 38112
Assistant Attorney General,
Representing the Washington State
Gambling Commission

Melinda A. Froud
Melinda Froud, WSBA# 26792
Staff Attorney,
Washington State Gambling Commission